

BEFORE THE IDAHO BOARD OF TAX APPEALS

GEORGE AND LIZ MCKINNON,	)	
	)	
Appellants,	)	APPEAL NO. 15-A-1120
	)	
v.	)	FINAL DECISION
	)	AND ORDER
BONNER COUNTY,	)	
	)	
Respondent.	)	
	)	
	)	
	)	

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**FOREST LAND APPEAL**

This appeal is taken from a decision of the Bonner County Board of Equalization denying the protest of valuation for taxing purposes of property described by Parcel No. RP56N03W164281A. The appeal concerns the 2015 tax year.

This matter came on for hearing October 29, 2015 in Sandpoint, Idaho before Board Member David Kinghorn. Appellants George and Liz McKinnon were self-represented. Bonnie Berscheid represented Respondent.

Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision.

**The issue on appeal is whether certain land qualifies for taxation as forest land pursuant to Idaho Code § 63-1701.**

**The decision of the Bonner County Board of Equalization is modified.**

**FINDINGS OF FACT**

The assessed land value is \$519,400. Appellants are seeking to have 4.5 acres of subject, currently assessed under the market value standard, specially valued as forest land at \$67,528. Subject is an unimproved 23.5 acre parcel, of which 13.8 acres are in a timber category, 5.2 acres are classified as underwater, and 4.5 acres are assessed at market value. It is the 4.5 acres assessed at market value which Appellants are appealing.

Subject is located on Lakeshore Drive just north of Morton Slew and contains 485 feet of water frontage on the River.

In 2006, Appellants applied for a timber exemption, and were granted the partial exemption, on 13.8 acres of subject. As 4.5 acres was referred to as a “hay field”, this area did not qualify as timber land, however was allowed the agricultural exemption. Later, upon inspection it was discovered the 4.5 acres was not being cultivated and thus the agricultural exemption was removed and the acreage was valued at market value. Respondent then discovered the parcel was incorrectly valued as “residual acreage” and should have been classified as waterfront. After correcting this error, subject’s total land value increased from \$67,528 to \$519,400.

On Appeal, Respondent researched the subject parcel and found it was not approved for a septic system. The standard in Bonner County is to apply a 50% downward adjustment to parcels which are denied septic permits. At hearing, Respondent therefore requested the assessed value be reduced to \$262,286. After applying the reduction, subject’s assessed value rate per front foot would be \$528.

Respondent offered five (5) 2014 improved sales for comparison to subject. All the sale properties contained 100 waterfront feet. After removing the value attributable to improvements, including onsite improvements, Respondent determined residual bare land rates between \$2,108 and \$4,591 per front foot.

Appellants explained the intent was to hold the subject parcel in the forest exemption, however, reported they were unaware of the system and necessary

procedures. Appellants contended subject should not be compared to improved properties and those with septic permits. Appellants found one (1) neighboring property similar to subject which only had one (1) acre assessed at the higher market value rate, not a larger area like subject's 4.5 acres.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value, or as applicable exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho Code § 63-205 requires taxable property be assessed at market value annually on January 1; January 1, 2015 in this case. Market value is defined in Idaho Code § 63-201, as,

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Market value is estimated according to recognized appraisal methods and techniques. There are three (3) approaches to value, the sales comparison approach, the cost approach, and the income approach.

Per Idaho Code §§ 63-203, 63-602, all property not specifically exempted by statute is subject to annual assessment and taxation. The parties do not dispute a portion of

subject qualified for assessment as designated forest land. The issue in this case involves the 4.5 acres of the subject parcel which lost the agricultural exemption for 2015. As this acreage was not being actively devoted to agricultural, the exemption was removed and the 4.5 acres were assessed at market value.

The forest land provisions are found in Idaho Code Section 63-1703, which provides in pertinent part,

(a) A forest landowner may choose to have his forest land assessed, appraised and taxed under the provisions of section 63-1705, Idaho Code, by filing such choice with the county assessor on a form prescribed by the state tax commission. Designation filed pursuant to section 63-1705, Idaho Code, shall become effective the first day of January following the year of designation.

It was clear in record the portion of subject in question did not qualify as forest land and no further application was ever made.

Idaho Code 63-604 provides another property tax exemption for land which is actively devoted to agriculture. Section 63-604 provides in pertinent part,

(1) For property tax purposes, land which is actively devoted to agriculture shall be eligible for appraisal, assessment and taxation as agricultural property each year it meets one (1) or more of the following qualifications:

(a) The total area of such land, including the homesite, is more than five (5) contiguous acres, and is actively devoted to agriculture which means:

(i) It is used to produce field crops including, but not limited to, grains, feed crops, fruits and vegetables; or

(ii) It is used to produce nursery stock as defined in section 22-2302(11), Idaho Code; or

(iii) It is used by the owner for the grazing of livestock to be sold as part of a for-profit enterprise, or is leased by the owner to a bona fide lessee for grazing purposes; or

(iv) It is in a cropland retirement or rotation program.

In order to receive an agricultural exemption the land must be more than five (5) contiguous acres and be actively devoted to agriculture. The subject parcel in whole is over the five (5) acre threshold. However, pursuant to the controlling definition, the 4.5 acre did not qualify as land actively devoted to agriculture. In record, there was no evidence or argument subject was being used for agricultural purposes.

The 4.5 acres in question simply does not qualify for an exemption and therefore must be assessed under the market value standard. The Board cannot ignore the statutory provisions, so we are unable grant the relief sought. However, Respondent has recommended lowering the parcel's assessed value. Respondent reported additional information was found regarding subject's inability to obtain a septic permit. When a property is denied septic, Respondent's general policy is to apply a 50% reduction. In doing this, Respondent recommended the Board reduce the subject's assessed value to \$263,286. We find this reduction is justified, therefore, the decision of the Bonner County Board of Equalization is modified.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization concerning the subject parcel be, and the same hereby is, MODIFIED to reflect a decrease in land value to \$263,286.

IT IS FURTHER ORDERED, pursuant to Idaho Code § 63-1305, any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellants.

DATED this 20<sup>th</sup> day of January, 2016.